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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,498	12/04/2003	Yoji Seto	NS-US035122	7558
7590	12/22/2005			
SHINJYU GLOBAL IP COUNNSELORS, LLP 1233 Twentieth Street, NW Suite 700 Washington, DC 20036			EXAMINER CHIN, GARY	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/726,498	Applicant(s) SETO ET AL.	
	Examiner Gary Chin	Art Unit 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| ✓ 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| ✓ 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/11/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 1, 8 and 17-19, the phrase “ vehicle-object relationship between a traveling speed of the vehicle and a distance the object and the vehicle that is corrected using a non-linear traveling speed based correction coefficient” is vague and indefinite as well as contextually unclear. It is suggested to change it to read “vehicle-object relationship between the object and the vehicle that is corrected using a non-linear traveling speed based correction coefficient” to rectify the aforementioned problem. Further, the phrase “configured to set a (or the) method” on claims 1, 3, 4, 7, 15 and 17 is also vague and indefinite. It is suggested to change it to read “configured to set a (or the) control operation” to render it more definite. Still further, on line 23 of claim 17, the word “section” should be “means” in order to avoid the antecedent basis problem.

As per claims 10 and 12, both on line 3, “a suspension characteristic setting” should be “the suspension characteristic setting” in order to avoid the antecedent basis problem. Similarly, the term “ a steering avoidance direction force” on line 3 of claim 11 should be “the steering avoidance direction force”.

Claims that have not been specifically indicated are rejected for incorporating the above errors from their respective parent claims by dependency.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 6 and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Seto et al (Pub no. 2003/0067219) submitted by applicants.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C.

102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

As per claims 1, 17 and 18, figures 1-2 of the Seto et al reference clearly disclose the claimed braking control device and method including a forward object detection section (item 1), an avoidance possibility determining section configured to determine if the object detected in the front of the vehicle can be avoided by at least one of steering and braking (item 10 in fig. 1 and S2 and S3 in fig. 2) and an automatic section configured to execute automatic braking when the avoidance possibility determining section determines that the object cannot be avoided by at least one of steering and braking (see S4 and S5 in fig. 2). Further, the avoidance possibility determination is made based upon a steering avoidance direction force (see sections 0039 to

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0051) and a change in a vehicle condition that results in deceleration of the vehicle (see sections 0036 to 0037) and as such meets the "at least one of" limitation as claimed.

As per claims 2, 6 and 16, the claimed braking avoidance determining section and steering determining section are taught in S2 and S3 respectively in figure 2 of the Seto et al reference.


4. Claims 3, 5, 7-15 and 19-24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

5. The additional references are cited to show the related systems. Applicant(s) should consider them carefully when responding to the current office action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Chin whose telephone number is (571) 272-6959. The examiner can normally be reached on Monday-Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


GARY CHIN
PRIMARY EXAMINER